

**U.S. District Court
Northern District of Ohio (Cleveland)
CIVIL DOCKET FOR CASE #: 1:08-cv-01101-DAP
Internal Use Only**

RIT Rescue & Escape Systems, Inc. v. Fire Innovations,
LLC et al
Assigned to: Judge Dan Aaron Polster
Demand: \$250,000
Cause: 15:1126 Patent Infringement

Date Filed: 04/30/2008
Date Terminated: 03/19/2009
Jury Demand: Defendant
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

RIT Rescue & Escape Systems, Inc.

Pat. # 5,970,517
6,487,725
7,086,091

represented by **John H. Faro**
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Miami, FL 33130
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ATTORNEY TO BE NOTICED

V.

Defendant

Fire Innovations, LLC

represented by **Craig M. Stainbrook**
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LEAD ATTORNEY

3. The Defendant, Fire Force, Inc., is an Ohio Corporation, having its principle place of business at 225 McClurg Road, Suite 1, Boardman, Mahoning County, Ohio 44512.

JURISDICTION

4. The following claims arise under the Patent & Unfair Competition Laws of the United States, 35 USC 281 et seq and 15 USC 1125(a). The Court has subject matter jurisdiction over such patent infringement and unfair competition claims pursuant 28 USC 1331, 1338(a) and 35 USC 281 et seq.

VENUE

5. Venue is proper in this judicial district under 28 USC 1400(b) and 1391(c).

BACKGROUND FACTS

6. RIT is the developer of certain unique fire/safety systems for fire fighters, including certain unique "turn out gear", a "pre-rigged egress system" and an "full body harness" for a self contained breathing apparatus (SCBD).

7. The unique fire/safety systems developed, manufactured and marketed by RIT are, by design, compatible within one another, in that each of these distinct RIT products can be purchased seperately, at different times, and integrated with one another into an integrated system at a later date; or, purchased at the same time, as a fully integrated system.

8. RIT has applied for, and been awarded a series of United States Patent on the patentable features of these unique fire/safety systems, ("RIT Patent Rights"), including specifically,

- (a) US 5,970,517 – “the ‘517 Patent”, issued October 26, 1999, entitled “ Safety Harness With Integral Support Line;
- (b) US 6,487,725 – “the ‘725 Patent”, issued December 3, 2002, entitled “ Safety Harness With Integral Support Line; and
- (c) US 7,086,091 – “the ‘091 Patent”, issued August 8, 2006, entitled “Full Body Harness”.

9. FIRE INNOVATIONS owns and operates the interactive web site, www.fireinnovations.com, upon which it offers for sale, one or more fire safety systems and products, Home Page of www.fireinnovations.com annexed hereto Exhibit “A”.

10. The FIRE INNOVATIONS interactive web site, www.fireinnovations.com, is accesable to residents within the Northern District of Ohio; and, solicits sales of FIRE INNOVATIONS products from the residents within the Northern District of Ohio.

11. The FIRE INNOVATIONS interactive web site, www.fireinnovations.com, identifies FIRE FORCE, as its authorized sales representative and distributor, within the Northern District of Ohio; and, Finely Fire Equipment, Inc., as its authorized sales representative and distributor, within the Southern District of Ohio, FIRE INNOVATIONS Dealer Locator Page from www.fireinnovations.com, annexed hereto as Exhibit “B”

12. Upon information and belief, FIRE FORCE has and maintains an inventory of FIRE INNOVATIONS products within the Northern District of Ohio; and, solicits and sells FIRE INNOVATIONS products directly to residents within the Northern District of Ohio, FIRE FORCE invoice for sale of a “Colorado Belt” and “Bailout System” to Mentor Fire Department (Attn: Dave Rancourt), annexed hereto as Exhibit “C”. FIRE FORCE also solicits orders for

FIRE INNOVATIONS products from residents within the Northern District of Ohio, for fulfillment by FIRE INNOVATIONS from California, FIRE INNOVATIONS, FIRE INNOVATIONS "Thank you" letter from Steve Bishop (President, FIRE INNOVATIONS), to Dave Rancourt (Mentor Fire Department), annexed hereto as Exhibit "D".

13. At all time material hereto, RIT has placed actual and potential infringers upon constructive notice of the RIT Patent Rights by prominently displaying/marketing the patent numbers of the RIT Patent Rights, along with the corresponding patented products, on its electronic catalog of its products, on its own web site, Product Pages from www.ritreducesystems.com/products.php, annexed hereto as Exhibit "E".

14. At all time material hereto, RIT has placed actual and potential infringers upon actual notice of the RIT Patent Rights by sending copies of its patents to Defendant, FIRE INNOVATIONS, Correspondence for RIT to FIRE INNOVATIONS from July 2007 to December 2007, Composite Exhibit "F"

15. One or more fire safety systems and products offered for sale, and/or sold by the Defendants, to residents within the Northern District Of Ohio, incorporate one of more of the patented inventions encompassed by one or more of the RIT Patent Rights.

COUNT I

(Patent Infringement – U.S. 5,979,517)

16. RIT herein incorporates paragraphs 1-15, as if restated herein, and further alleges as follows:

17. RIT states that to the best of its knowledge, information and belief, formed after reasonable inquiry under the circumstances, it will likely be able to prove, after reasonable opportunity for further investigation or discovery, that:

(a) In violation of 35 USC 271(a), (b) and (c), the Defendants have infringed and are continuing to infringe the RIT's '517 Patent, by making, using, selling or offering for sale the inventions protected by one or more of the claims of RIT's '517 Patent.

(b) Defendants infringement of the RIT '517 Patent, as set forth herein, has been and is deliberate and willful, making this an exceptional case within the meaning of 35 USC 285; and

(c) Defendants infringement of the RIT '517 Patent, has caused and will continue to cause RIT monetary damage and irreparable harm, for which it has no adequate remedy at law.

WHEREFORE RIT demands judgment against the Defendants as follows:

- Damages for Defendants' willful infringement to compensate RIT for its lost profits and not less than a reasonable royalty, which is believed to approximate more than \$150,000;
- A permanent injunction restraining the Defendants and all parties acting in concert with them from any further infringement of the RIT Patent Rights, specifically the '517 Patent; and
- RIT's reasonable attorney fees and costs.

COUNT II

(Patent Infringement – U.S. 6,487,725)

18. RIT herein incorporates paragraphs 1-15, as if restated herein, and further alleges as follows:

19. RIT states that to the best of its knowledge, information and belief, formed after reasonable inquiry under the circumstances, it will likely be able to prove after reasonable opportunity for further investigation or discovery, that:

(a) In violation of 35 USC 271(a), (b) and (c), the Defendants have infringed and is continuing to infringe the RIT's '725 Patent, by making, using, selling or offering for sale the inventions protected by one or more of the claims of RIT's '725 Patent.

(b) Defendants infringement of the RIT '725 Patent, as set forth herein, has been and is deliberate and willful, making this an exceptional case within the meaning of 35 USC 285; and

(c) Defendants infringement of the RIT '725 Patent, has caused and will continue to cause RIT monetary damage and irreparable harm, for which it has no adequate remedy at law.

WHEREFORE RIT demands judgment against the Defendants as follows:

- Damages for Defendants' willful infringement to compensate RIT for its lost profits and not less than a reasonable royalty, which is believed to approximate more than \$150,000;
- A permanent injunction restraining the Defendants and all parties acting in concert with them from any further infringement of the RIT Patent Rights, specifically the '725 Patent; and
- RIT's reasonable attorney fees and costs.

COUNT III

(Patent Infringement – U.S. 7,086,091)

20. RIT herein incorporates paragraphs 1-15, as if restated herein, and further alleges as follows:

21. RIT states that to the best of its knowledge, information and belief, formed after reasonable inquiry under the circumstances, it will likely be able to prove after reasonable opportunity for further investigation or discovery, that:

(a) In violation of 35 USC 271(a), (b) and (c), the Defendants have infringed and is continuing to infringe the RIT's '091 Patent, by making, using, selling or offering for sale the inventions protected by one or more of the claims of RIT's '091 Patent.

(b) Defendants infringement of the RIT '091 Patent, as set forth herein, has been and is deliberate and willful, making this an exceptional case within the meaning of 35 USC 285; and

(c) Defendants infringement of the RIT '091 Patent, has caused and will continue to cause RIT monetary damage and irreparable harm, for which it has no adequate remedy at law.

WHEREFORE RIT demands judgment against the Defendants as follows:

- Damages for Defendants' willful infringement to compensate RIT for its lost profits and not less than a reasonable royalty, which is believed to approximate more than \$150,000;
- A permanent injunction restraining the Defendants and all parties acting in concert with them from any further infringement of the RIT Patent Rights, specifically the '091 Patent; and
- RIT's reasonable attorney fees and costs.

COUNT IV

(Unfair Competition – 15 USC 1125(a))

23. RIT herein incorporates paragraphs 1-15, as if restated herein, and further alleges as follows:

24. RIT and FIRE INNOVATIONS are competitors in the manufacture, marketing and sale of fire safety products and systems, including fire safety products and systems encompassed by one or more of the claims of the RIT Patent Rights.

25. RIT and FIRE INNOVATIONS compete for sales of fire fire safety products and systems, throughout the United States, including the Northern District of Ohio.

26. RIT products incorporate unique features and designs for which patent protection has been granted.

25. All products manufactured and sold by RIT and its authorized distributors, are manufactured in accordance with industry standards, and independently certified as in compliance with such standards.

25. Upon information and belief, the fire safety products and systems of FIRE INNOVATIONS that compete with the RIT fire safety products and systems, are not certified by an independent testing agency as compliant with industry standards for these competing products.

26. Upon information and belief, the fire safety products and systems of FIRE INNOVATIONS that compete with the RIT fire safety products and systems, are more expensive than the comparable RIT product.

25. On or about January 2008, RIT's authorized sales representative and distributor, for the rocky mountain sales territory, MES (Municipal Emergency Services, Inc.) obtained a signed Purchase Order for approximately \$90,000, for RIT fire safety products and systems from

the West Metro Fire Protection District in Lakewood, Colorado, signed West Metro Purchase Order annexed hereto as Exhibit "G"

26. Shortly after the signed West Metro signed Purchase Order had been obtained, it was unexpectedly cancelled, without comment or explanation; and, the contract for the essentially same equipment thereafter awarded to FIRE INNOVATIONS.

27. RIT states that to the best of its knowledge, information and belief, formed after reasonable inquiry under the circumstances, it will likely be able to prove after reasonable opportunity for further investigation or discovery, that the cancellation of the RIT signed Purchase Order, and the diversion of the sales from RIT to FIRE INNOVATIONS, was the direct and proximate result of

- the FIRE INNOVATIONS disparagement of RIT and/or the RIT products,
- the FIRE INNOVATIONS misrepresentation of its own products, and/or
- was the result of FIRE INNOVATIONS unfair business practices.

28. The FIRE INNOVATIONS actions, as set forth in Paragraph (27), comprise unfair competition in violation of Federal Law, including specifically, 15 USC 1125(a).

28. As a direct and proximate result of the actions of FIRE INNOVATIONS, as set forth in Paragraph (27), RIT has been injured of not less than \$90,000, or according to proof.

29. As a direct and proximate result of the actions of FIRE INNOVATIONS, as set forth in Paragraph (27), RIT has sustained irreparable harm, for which damages are inadequate.

WHEREFORE, RIT demands judgment against Defendants as follows:

(A) Monetary damages from the Defendants, jointly and severally, for the wrongful diversion of sales from the RIT existing customers, and potential customers to

FIRE INNOVATIONS, including without limitation, the aggregate, of an amount equivalent to RIT losses, the FIRE INNOVATIONS profits and reasonable attorney fees & costs;

(B) A permanent injunction against the Defendants, its agents, servants, employees, and attorneys and all persons acting on behalf of the Defendants, or in concert with them, from any further disparagement of RIT and the RIT products.

VERIFICATION

I have reviewed the factual allegations of the Complaint as set forth herein, and verily believe that the allegations are truthful and accurate, to the best of my knowledge, information and belief.

/s/ Omar Jordan, President
RIT

Respectfully,

/s/ John H. Faro
John H. Faro, Esq.
Ohio Bar No.
Attorney For Plaintiff

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RIT RESCUE & ESCAPE SYS., INC.,)	Case No. 1:08 CV 1101
)	
Plaintiff,)	Judge Dan Aaron Polster
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
FIRE INNOVATIONS, LLC,)	
)	
Defendant.)	

Before the Court is the "RIT Combined Motion & Memorandum to Alter or Amended Stipulated Dismissal Order [DE 48] under Rule 59(E) and/or to Relieve RIT from Certain of the Terms of Such Order, under Rule 60(B)" (the "Motion") (ECF No. 49). For the following reason, the Motion is **DENIED**.

I.

On March 18, 2009, after nearly a year of contentious litigation in this patent infringement case which uncovered no evidence that Defendant Fire Innovations had infringed any of Plaintiff RIT's patents, the Court held a teleconference with counsel for Plaintiff RIT Rescue & Escape Systems, Inc. (John H. Faro, Esq.) and Defendant Fire Innovations, LLC (Craig M. Stainbrook, Esq.) over RIT's request for a dismissal without prejudice of its claims against Fire Innovations. The teleconference culminated in Attorney Stainbrook's agreement, on

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Defendant

Fire Force, Inc.
TERMINATED: 11/03/2008

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Counter-Claimant

Fire Innovations, LLC

represented by **Craig M. Stainbrook**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Karin P. Beam
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Warren L. Dranit
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ATTORNEY TO BE NOTICED

V.

Counter-Defendant

RIT Rescue & Escape Systems, Inc.

represented by **John H. Faro**
(See above for address)
ATTORNEY TO BE NOTICED

Counter-Claimant

behalf of Fire Innovations, to dismissal without prejudice of the claims and counterclaims in this case in exchange for RIT's agreement to the following conditions:

1. RIT shall cooperate with the U.S. Patent Office in processing the reexamination of the '725 patent, and will not refile any claims related to that patent against Fire Innovations until the Patent Office has completed its reexamination;
2. Any claims brought by RIT against Fire Innovations in the future shall be refiled in California;
3. Any claims that RIT refiles against Fire Innovations in the future relating to the '571, '091 and/or '725 patents shall be accompanied by a legally sufficient claim chart as to all alleged patent infringements;
4. Both RIT and Fire Innovations may use all pleadings and documents filed, discovery responses and correspondence in this case in any new cases;
5. The aforementioned conditions shall apply as well to any claims RIT brings against Sperian Protection in the future relating to the '571, '091 and '725 patents.

ECF No. 48, at 3.

The limitation of venue as to Sperian arose from Attorney's Faro's comments that RIT intended to sue Sperian, rather than Fire Innovations, for infringing the '091 patent alleged to be infringed in this case – and Attorney Stainbrook's representation that the allegedly infringing product sold by Sperian was in fact manufactured by Fire Innovations. Attorney Stainbrook asserted that Fire Innovations and Sperian have an indemnification agreement that covers this particular product, and if RIT were to sue Sperian over the product, Fire Innovations would be either be named as a party or joined to the action. Attorney Stainbrook stated that Attorney Faro knew about all of this since the deposition of a Fire Innovations' representative in California earlier this year. Because Fire Innovations had already spent tens of thousands of

dollars defending a case in which it still had no idea of the basis for the claims against it, Attorney Stainbrook refused to agree to dismissal without prejudice of the claims and counterclaims unless RIT agreed, should it so desire, to sue Fire Innovations or Sperian for infringing the patents alleged to be infringed in this case in California, where Fire Innovations resides. Attorney Faro agreed.

On March 26, 2009, after letters to the Court proved unavailing, RIT filed the pending Motion. *ECF No. 49*. RIT now objects to condition Nos. 2 and 5. *Motion* at 2. RIT contends that the limitation on venue as to Sperian conflicts with the controlling patent venue statutes, 28 U.S.C. §§ 1400(b), 1391(a) and (c). *Id.* at 3. RIT asserts that it never stipulated to ignoring the controlling statute and that the subject conditions have no legal effect as to Sperian in any event because it was not a party in this case. *Id.* at 2. RIT insists that the district court in Rhode Island is the only venue where RIT can bring its claims against Sperian because “Sperian Respiratory Protection USA, LLC is a Delaware chartered limited liability company, fka Survivair Repirators (sic) LLC, with its corporate administrative offices and registered agent, located in Smithfield and Warwick Rhode Island respectively.” *Motion* at 3 (emphasis in original). As proof of this representation, RIT has attached a copy of a Limited Liability Company Annual Report for the Year 2007 filed with the State of Rhode Island and a page downloaded from the Rhode Island Secretary of State’s website, both of which list the principal office for Sperian Respiratory Protection USA, LLC, in Santa Ana, California with a mailing address in Smithfield, Rhode Island. *Id.* at 13, 14.

Fire Innovations argues that, based on the documents provided by RIT and the relevant case law, RIT is entitled to bring an action against Sperian Respiratory Protection USA,

LLC, in federal court in California so long as it can show there is personal jurisdiction over the company in California.¹ *ECF No. 50*, at 1-2. Furthermore, California has personal jurisdiction over Sperian because it is one of the world's largest companies providing protective gear to fire fighters with sales throughout the United States, its principal place of business is in Santa Ana, California, and the OEM agreement between Fire Innovations and Sperian (which agreement was produced to RIT during discovery) over the product that may be the subject of the purported lawsuit was negotiated and executed in California. *Id.* at 2. Finally, based on the representations RIT has made to this Court concerning suing Sperian for patent infringement, Sperian has asserted notice of what it believes to be its indemnity rights under the OEM agreement between it and Fire Innovations. *See ECF No. 50* at 4 n.3 (citing *ECF No. 50-2*, *Stainbrook Decl.* ¶ 7, in turn citing *ECF No. 50-2*, *Ex. A*, 3/31/09 *Sperian letter*).

The Court has reviewed the Motion, *ECF No. 49*, the opposition brief, *ECF No. 50*, and the reply brief, *ECF No. 51*, and the case law and is prepared to issue its ruling.

II.

Venue in a patent infringement case is governed by 28 U.S.C. §§ 1400(b) and 1391(c). *VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1574 (Fed. Cir. 1990); *Glasstech, Inc., v. TGL Tempering Sys., Inc.*, 50 F.Supp.2d 722, 728 (N.D. Ohio 1999). Under 28 U.S.C. § 1400(b),

Any civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the

¹The Court notes that Fire Innovations has objected to RIT's exhibits on the basis that it has failed to lay a proper evidentiary foundation for them. *ECF No. 50*, at 3. Nonetheless, presumably for efficiency's sake, Fire Innovations' argument assumes the Court will take those exhibits into consideration. *Id.*

defendant has committed acts of infringement and has a regular and established place of business.

Id. Under 28 U.S.C. § 1391(c),

[A] defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.

Id.

The exhibits provided by RIT show that, while Sperian Respiratory Protection USA, LLC, has a mailing address and registered agent in Rhode Island, its principal place of business is 3001 South Susan Street, Santa Ana, California, 92704. Thus, while RIT may be able to sue Sperian in Rhode Island district court, RIT has not shown that it cannot sue Sperian over the '091 patent in a California district court.

III.

Dismissal without prejudice of the claims and counterclaims in this case was premised upon RIT's agreement to, among other things, refile any claims in the future against Fire Innovations or Sperian over the patents alleged to be infringed in this case in California. RIT has failed to show that venue in California is improper. Consequently, RIT's "Combined Motion & Memorandum to Alter or Amended Stipulated Dismissal Order [DE 48] under Rule 59(E) and/or to Relieve RIT from Certain of the Terms of Such Order, under Rule 60(B)" (ECF No. 49) is hereby **DENIED**.

IT IS SO ORDERED.

/s/Dan Aaron Polster April 15, 2009
Dan Aaron Polster
United States District Judge

Fire Innovations, LLC

represented by **Craig M. Stainbrook**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Karin P. Beam
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Warren L. Dranit
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Counter-Defendant

RIT Rescue & Escape Systems, Inc.

represented by **John H. Faro**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/30/2008	<u>1</u>	Complaint (Exhibits, Civil Cover Sheet and Summons) <i>against Fire Innovations LLC and Fire Force Inc.</i> Filing fee \$ 350, receipt number 0647000000002994370, filed by RIT Rescue & Escape Systems, Inc. (Faro, John) Modified on 5/1/2008 (C,BA). (Entered: 04/30/2008)
05/01/2008		(Court only) Utility Event adding party Fire Innovations, LLC, and Fire Force, Inc.. (C,BA) (Entered: 05/01/2008)
05/01/2008		Judge Dan Aaron Polster assigned to case. (C,BA) (Entered: 05/01/2008)
05/01/2008		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Baughman. (C,BA) (Entered: 05/01/2008)
05/01/2008	<u>2</u>	Summons and Magistrate Consent Form issued to counsel for service upon Fire Innovations, LLC & Fire Force, Inc. (Attachments: # <u>1</u> Magistrate Consent Form) (C,BA) (Entered: 05/01/2008)
05/01/2008		Notice by Clerk that RIT Rescue & Escape Systems, Inc. failed to file a corporate disclosure statement as required by Local Rule 3.13(b). (C,BA) (Entered: 05/01/2008)
05/01/2008	<u>3</u>	Corporate Disclosure Statement by RIT Rescue & Escape Systems, Inc. identifying Corporate Parent RIT Rescue & Escape Systems, Inc. for RIT Rescue & Escape Systems, Inc.. filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 05/01/2008)

05/06/2008		(Court only) Utility event editing case flags, removed missingcds flag. (R,N) (Entered: 05/06/2008)
07/30/2008		Financial Transaction in the amount of \$100.00 received for motion to appear pro hac vice by attorney Craig M. Stainbrook, Receipt # 14660021811 (C,BA) (Entered: 07/30/2008)
07/30/2008	<u>4</u>	Motion for attorney Craig M. Stainbrook to Appear Pro Hac Vice. Filing fee \$ 100, receipt number 14660021811, filed by Defendant Fire Innovations, LLC. (Attachments: # <u>1</u> certificate of good standing)(C,B) (Entered: 07/31/2008)
07/30/2008	<u>5</u>	Answer to <u>1</u> Complaint, with Jury Demand, Counterclaim against RIT Rescue & Escape Systems, Inc. filed by Fire Innovations, LLC. (C,B) (Entered: 07/31/2008)
08/04/2008		Order [non-document] granting Motion for appearance pro hac vice by attorney Craig M. Stainbrook for Fire Innovations, LLC (Related Doc # <u>4</u>). Judge Dan Aaron Polster on 8/4/08.(P,R) (Entered: 08/04/2008)
08/04/2008	<u>6</u>	Answer To Defendant, Fire Innovations, Counterclaim filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 08/04/2008)
08/11/2008	<u>7</u>	Unopposed Motion to amend complaint filed by Plaintiff RIT Rescue & Escape Systems, Inc.. (Attachments: # <u>1</u> Exhibit Proposed Amended Complaint)(Faro, John) (Entered: 08/11/2008)
08/12/2008		Order [non-document] granting Motion to amend complaint (Related Doc # <u>7</u>). Plaintiff shall file amended complaint forthwith. Judge Dan Aaron Polster on 8/12/08.(P,R) (Entered: 08/12/2008)
08/13/2008	<u>8</u>	First Amended complaint against all parties, filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 08/13/2008)
08/13/2008	<u>9</u>	Notice & Request To Clerk To Issue Summons For Fire Force, Inc. (Pennsylvania Corp) filed by RIT Rescue & Escape Systems, Inc.. Related document(s) <u>8</u> .(Faro, John) (Entered: 08/13/2008)
08/14/2008	<u>10</u>	Motion for attorney Warren L. Dranit to Appear Pro Hac Vice. Filing fee \$ 100, receipt number 06470000000003157518, filed by Counter-Claimant Fire Innovations, LLC, Defendant Fire Innovations, LLC. (Attachments: # <u>1</u> Appendix certificate of good standing)(Stainbrook, Craig) (Entered: 08/14/2008)
08/14/2008	<u>11</u>	Motion for attorney Karin P. Beam to Appear Pro Hac Vice. Filing fee \$ 100, receipt number 06470000000003157557, filed by Counter-Claimant Fire Innovations, LLC, Defendant Fire Innovations, LLC. (Attachments: # <u>1</u> Appendix certificate of good standing)(Stainbrook, Craig) (Entered: 08/14/2008)
08/18/2008		Order [non-document] granting Motions for appearance pro hac vice by attorneys Warren L. Dranit and Karin P. Beam for Fire Innovations, LLC (Related Doc # <u>10</u> <u>11</u>). Judge Dan Aaron Polster on 9/18/08.(P,R) (Entered: 08/18/2008)

08/18/2008	<u>12</u>	Summons and Magistrate Consent Form issued for service upon Fire Force, Inc.. (Attachments: # <u>1</u> Magistrate Consent Form) (R,N) (Entered: 08/18/2008)
08/18/2008	<u>13</u>	<i>Defendant Fire Innovation's Answer to 8 Amended complaint Affirmative Defenses, Counterclaims, and Jury Demand, Counterclaim</i> against RIT Rescue & Escape Systems, Inc. filed by Fire Innovations, LLC. (Stainbrook, Craig) (Entered: 08/18/2008)
08/27/2008	<u>14</u>	<i>Answer To Fire Innovations, Inc. Counterclaim</i> filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 08/27/2008)
09/12/2008	<u>15</u>	Unopposed Motion for leave to Respond to Plaintiff's First Amended Complaint filed by Defendant Fire Force, Inc.. Related document(s) <u>8</u> . (Krzys, Jerry) (Entered: 09/12/2008)
09/15/2008		Order [non-document] granting Fire Force's Motion for leave until 10/12/08 to answer amended complaint (Related Doc # <u>15</u>). Judge Dan Aaron Polster on 9/15/08.(P,R) (Entered: 09/15/2008)
10/10/2008	<u>16</u>	Answer to 8 Amended complaint filed by Fire Force, Inc.. (Krzys, Jerry) (Entered: 10/10/2008)
10/15/2008	<u>17</u>	Case Management Conference Scheduling Order. Case management conference to be held on 11/5/2008 at 1:00 PM at Chambers 18B before Judge Dan Aaron Polster. Judge Dan Aaron Polster on 10/15/08. (P,R) (Entered: 10/15/2008)
10/16/2008	<u>18</u>	Motion to attend <i>Case Management Conference</i> scheduled for 11/15/08 by telephone filed by Fire Innovations, LLC, Fire Innovations, LLC, Defendant Fire Innovations, LLC. (Attachments: # <u>1</u> Affidavit Declaration in Support of Motion by Defendant Fire Innovations, LLC to Appear Telephonically at Case Management Conference)(Stainbrook, Craig) Modified docket text on 10/20/2008 (R,N). (Entered: 10/16/2008)
10/17/2008	<u>19</u>	Opposition to <u>18 Motion</u> to attend <i>Case Management Conference</i> by telephone filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 10/17/2008)
10/17/2008	<u>20</u>	Opposition to <u>18 Motion</u> to attend <i>Case Management Conference</i> by telephone (<i>Corrected - Disregard Prior Opposition by RIT</i>) filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 10/17/2008)
10/17/2008	<u>21</u>	Marginal Entry Order denying Defendant Fire Innovations, LLC's Motion to Appear Telephonically at Case Management Conference. (Related Doc # <u>18</u>). Judge Dan Aaron Polster on 10/17/08.(S,R) (Entered: 10/17/2008)
10/28/2008	<u>22</u>	Motion for Markman Hearing filed by Plaintiff RIT Rescue & Escape Systems, Inc.. (Faro, John) Modified docket text on 10/29/2008 (R,N). (Entered: 10/28/2008)
10/28/2008	<u>23</u>	<i>Notice Of Informal Settlement Between RIT Rescue Systems and Fire Force</i> filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 10/28/2008)

10/31/2008	<u>24</u>	Joint Proposed Stipulation <i>Of Dismiss Of Defendant Fire Force, Inc.</i> filed by all parties. (Faro, John) Modified docket text and added party filers on 11/3/2008 (R,N). (Entered: 10/31/2008)
11/03/2008	<u>25</u>	<i>Defendant's Corrections to Plaintiff's Report of Parties Planning Meeting Under Fed.R.Civ.P. 26(f) & L.R. 16.3(b)(3)</i> filed by Fire Innovations, LLC. (Stainbrook, Craig) Modified docket text on 11/5/2008 (R,N). (Entered: 11/03/2008)
11/03/2008	<u>26</u>	Joint Report of Parties' Planning Meeting <i>Under Fed.R.Civ.Proc. 26(f) and LR 16.3(b)(3)</i> . Parties do not consent to this case being assigned to the magistrate judge. filed by all parties. (Faro, John) Modified party filers on 11/5/2008 (R,N). (Entered: 11/03/2008)
11/03/2008	<u>27</u>	Notice of Dismissal of defendant Fire Force, Inc., each of the parties are to assume and bear their own attorney fees and cost. Signed by Judge Dan Aaron Polster on 11/3/08. (E,P) (Entered: 11/04/2008)
11/06/2008	<u>28</u>	Order re CMC Conference held on 11/5/08. Status/settlement Conference set for 3/16/2009 at 12:00 PM in Chambers 18A before Judge Dan Aaron Polster. The parties are to undergo three months of focused discovery. Plaintiff to file a claims chart, no later than 2/2/09, which specifically indentifies how the Defendant's products are infringing upon Plaintiff's patents. Defendant's response, no later than 3/2/08. In anticipation of the 3/19/08 conference, both parties shall fax (216-357-7195) submission letters to chambers no later than 12:00 PM on 3/16/08, addressing matters that may assist the Court in settling the case, as well as the status of settlement discussions. Signed by Judge Dan Aaron Polster on 11/6/08. (C,B) (Entered: 11/06/2008)
11/24/2008	<u>29</u>	First Notice <i>Of Service Of Discovery</i> filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 11/24/2008)
12/01/2008	<u>30</u>	Notice <i>Of Filing Declaration Of Omar Jordan Pursuant To 28 USC 144</i> filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 12/01/2008)
12/05/2008	<u>31</u>	Response to the Declaration of Omar Jordan Under 28 USC 144 filed by Fire Innovations, LLC. Related document(s) <u>30</u> . (Stainbrook, Craig) Modified docket text on 12/8/2008 (R,N). (Entered: 12/05/2008)
12/15/2008	<u>32</u>	First Motion for protective order filed by Fire Innovations, LLC, Fire Innovations, LLC, Defendant Fire Innovations, LLC. (Stainbrook, Craig) Modified on 12/18/2008 (P,R). WITHDRAWN (Entered: 12/15/2008)
12/15/2008	<u>33</u>	Affidavit/Declaration of Craig M. Stainbrook in Support of Defendant Fire Innovations, LLC's Motion for a Protective Order filed by Fire Innovations, LLC. Related document(s) <u>32</u> . (Attachments: # <u>1</u> Exhibits A - G) (Stainbrook, Craig) Modified document description on 12/16/2008 (R,N). Modified on 12/18/2008 (P,R). WITHDRAWN (Entered: 12/15/2008)
12/15/2008	<u>34</u>	Proposed Protective Order filed by Fire Innovations, LLC, Fire Innovations, LLC, Defendant Fire Innovations, LLC. Related document(s) <u>32</u> , <u>33</u> .

		(Stainbrook, Craig) Modified docket text and termed motion on 12/16/2008 (R,N). Modified on 12/18/2008 (P,R). WITHDRAWN (Entered: 12/15/2008)
12/16/2008		(Court only) Utility Event Terminating Motions. <u>34</u> Proposed Motion for protective order filed by Fire Innovations, LLC. This is not a motion (R,N) (Entered: 12/16/2008)
12/16/2008	<u>35</u>	Order re <u>30</u> Notice filed by RIT Rescue & Escape Systems, Inc. Mr. Jordan's request for reassessment under 28 USC 144 is denied. Judge Dan Aaron Polster on 12/16/08. (P,R) (Entered: 12/16/2008)
12/18/2008	<u>36</u>	Order withdrawing Defendant's Motion for protective order, Declaration of Craig M. Stainbrook and Proposed Protective Order (Related Doc #s <u>32</u> <u>33</u> <u>34</u>). Judge Dan Aaron Polster on 12/18/08.(P,R) (Entered: 12/18/2008)
12/19/2008	<u>37</u>	Order memorializing issues and rulings re: discovery disputes; the Court ruled the Deposition of Defendant must be taken in the Northern District of California; Defendant has agreed to serve its initial disclosures on Plaintiff no later than 12/24/08; and the Court recognizes the need to protect certain business information, counsel are to confer with regards to the terms of a protective order and to file it for the Court's review. Signed by Judge Dan Aaron Polster on 12/18/08. (C,B) (Entered: 12/19/2008)
01/07/2009	<u>38</u>	Stipulation & Order Regarding Confidentiality. Judge Dan Aaron Polster on 1/7/09. (P,R) (Entered: 01/07/2009)
01/08/2009	<u>39</u>	Order Re: Second Discovery Dispute. Judge Dan Aaron Polster on 1/8/09. (P,R) (Entered: 01/08/2009)
01/30/2009		Order [non-document] denying as premature Plaintiff's Motion for Markman Hearing (Related Doc # <u>22</u>). Judge Dan Aaron Polster on 1/30/09. (P,R) (Entered: 01/30/2009)
02/06/2009	<u>40</u>	Motion for extension of time until February 29, 2009 to File Claim Chart filed by Plaintiff RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 02/06/2009)
02/09/2009	<u>41</u>	Opposition to <u>40</u> Motion for extension of time until February 29, 2009 to File Claim Chart filed by Fire Innovations, LLC. (Attachments: # <u>1</u> Exhibits A-E)(Stainbrook, Craig) Modified document description on 2/11/2009 (R,N). (Entered: 02/09/2009)
02/10/2009	<u>42</u>	Notice of Service <i>Of Records Custodian Subpoenas</i> filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 02/10/2009)
02/11/2009	<u>43</u>	Reply to response to <u>40</u> Motion for extension of time until February 29, 2009 to File Claim Chart filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 02/11/2009)
02/13/2009	<u>44</u>	Order granting <u>40</u> Plaintiff's Motion for Extension of Time, Nunc Pro Tunc, to File Claim Chart. Plaintiff's claim chart due by 12:00 p.m. 2/27/09, defendant's response due by 12:00 p.m. 3/27/09. Status Conference reset for 4/14/09 9:00 AM in Chambers 18B before Judge Dan Aaron Polster. In the future, the Court will not grant any requests for extension of deadlines that

		are not filed well in advance, do not advise the Court if opposing counsel objects, and do not take into account all other deadlines. Judge Dan Aaron Polster on 2/13/09.(P,R) (Entered: 02/13/2009)
02/19/2009	<u>45</u>	Order. RE: Third Discovery Dispute. Telephone Conference held on 2/19/09. Attorney Faro directed to provide responses to both sets of Attorney Stainbrooks' interrogatory and document requests by 3/2/09. Judge Dan Aaron Polster on 2/19/09.(P,R) Modified docket text on 2/23/2009 (R,N). (Entered: 02/19/2009)
02/27/2009	<u>46</u>	Markman Brief <i>Claim Chart In Support Of Markam Hearing (Unscheduled)</i> filed by RIT Rescue & Escape Systems, Inc.. Related document(s) <u>44</u> . (Faro, John) (Entered: 02/27/2009)
03/03/2009	<u>47</u>	Notice of Service <i>Of Answers To FI 1st & 2nd Set Of Interrogatories and To FI 1st & 2nd Requests For Production Of Documents</i> filed by RIT Rescue & Escape Systems, Inc.. Related document(s) <u>45</u> .(Faro, John) (Entered: 03/03/2009)
03/18/2009		Minutes of proceedings [non-document] before Judge Dan Aaron Polster.Telephone Conference held on 3/18/09. Case resolved. (P,R) (Entered: 03/19/2009)
03/19/2009	<u>48</u>	Stipulated Dismissal Order. Claims and counterclaims dismissed without prejudice. See order for conditions of dismissal. Judge Dan Aaron Polster on 3/19/09. (P,R) (Entered: 03/19/2009)
03/26/2009	<u>49</u>	Motion to alter/amend judgment <i>With Repect To RIT Right To Enforce Its Patent Rights Against Sperian Protection S.A. and Sperian Affiliates</i> filed by Plaintiff RIT Rescue & Escape Systems, Inc.. Related document(s) <u>48</u> . (Faro, John) (Entered: 03/26/2009)
04/03/2009	<u>50</u>	Opposition to <u>49</u> Motion to alter/amend judgment <i>With Repect To RIT Right To Enforce Its Patent Rights Against Sperian Protection S.A. and Sperian Affiliates</i> filed by Fire Innovations, LLC. (Attachments: # <u>1</u> Affidavit Declaration of Craig M. Stainbrook in Support of Fire Innovation's Opposition to RIT's Combined Motion and Memorandum to Alter or Amend Stipulated Dismissal Order Under Rule 59(e) and/or to Relieve RIT From Certain of the Terms of Such Order Under Rule 60)(Stainbrook, Craig) (Entered: 04/03/2009)
04/08/2009	<u>51</u>	Reply to response to <u>49</u> Motion to alter/amend judgment <i>With Repect To RIT Right To Enforce Its Patent Rights Against Sperian Protection S.A. and Sperian Affiliates</i> filed by RIT Rescue & Escape Systems, Inc.. (Faro, John) (Entered: 04/08/2009)
04/09/2009		(Court only) Complaint, final decision and docket sheet mailed to Patent and Trademark office. (K,Ca) (Entered: 04/09/2009)
04/15/2009	<u>52</u>	Memorandum of Opinion and Order denying Plaintiff's Motion to alter or amend stipulated dismissal order (Related Doc # <u>49</u>). Judge Dan Aaron Polster on 4/15/09.(P,R) (Entered: 04/15/2009)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
(Eastern Division)

Case No. _____

RIT RESCUE & ESCAPE SYSTEMS, INC.
(An Ohio Corporation)

Plaintiff,

vs.

FIRE INNOVATIONS, LLC.
(A California Limited Liability Co.)

&

FIRE FORCE, INC.
(An Ohio Corporation)

Defendants.

ORIGINAL COMPLAINT

The Plaintiff, RIT Rescue & Escape Systems, Inc. ("RIT"), as and for its Complaint against the Defendants, Fire Innovations, LLC. ("FIRE INNOVATIONS") and Fire Force, Inc. "FIRE FORCE", by and through the undersigned counsel, hereby alleges as follows:

THE PARTIES

1. The Plaintiff, RIT Rescue & Escape Systems, Inc., is an Ohio Corporation, having its principle place of business at 1900 Enterprise Parkway, Suite H, Twinsburg, Cuyahoga County, Ohio 44087
2. The Defendant, Fire Innovations, LLC., is California chartered limited liability company, having its principle place of business at 2454 E. Washington Street, Petaluma, California 94954.